IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 1740 OF 1991

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.

Court's or Judge's orders

Mr. A.A. Kumbhakoni for Petitioner.

Mr. S.G. Karandikar i/by Girish S. Godbole for Respondent No. 1.

CORAM : F.I. REBELLO,J.
DATED : JANUARY 13, 2005

P.C.

. Petitioner had filed application under Section 32(G) of the Agricultural Lands Act, 1948. That came to be allowed. The aggrieved Respondent No. 1 preferred an appeal. That came to be dismissed on the ground that Respondent No. 1 has no locus standi to maintain the appeal. Inspite of that the appellate authority remanded the matter in terms of the observations made in the body of the judgment. Respondent No.1 and the Petitioner herein preferred revision applications. Both came to be dismissed. The order passed by the Tahsildar was set aside and the matter was

remanded for an enquiry into the holding of the tenant on 1.4.1957 and thereafter to pass appropriate orders according to law.

. The Petitioner aggrieved by the said order has preferred the present petition. At the hearing of the petition, on behalf of the Petitioner, their learned counsel submits that the partition between Respondent No. 1 and his father Basavanappa through whom Respondent No. 1 claims as landlord was held to be sham. Once that be the case, it was not open to the Respondent No. 1 to have preferred appeal or the revision application and considering that the order of Tahsildar ought not to have been set aside.

. The very fact that there was partition of the property would presume that the property was of co-ownership and as such Respondent No. 1 would have had interest in preferring the appeal. At any rate, today, it is not necessary to go into the controversy as in the meantime, Basavappa has expired and Respondent No. 1 has stepped into the shoes of Basavappa. The order of remand is only in respect of the entitlement of the Petitioners. Considering that no interference is called

for. Rule discharged. No order as to costs.

. Considering that the proceedings are pending since 1970, Tahsildar is directed to dispose of the proceedings at any rate not latter than 31.3.2006.

. All parties to act on the copy of this order duly authenticated by the Associate.

(F.I. REBELLO,J.)